



Council of the
INSPECTORS GENERAL
on INTEGRITY and EFFICIENCY

Chief FOIA Officer: Mark Jones

Chief FOIA Officer's Report
March 7, 2014

The Council of the Inspectors General on Integrity and Efficiency (CIGIE) submits this report in accord with the Attorney General's FOIA guidelines issued on March 19, 2009, calling upon agencies to reaffirm the government's "commitment to accountability and transparency." Specifically, the provision directing agency Chief FOIA Officers to review "all aspects of their agencies' FOIA administrations" and to report annually to the Department of Justice on the steps taken "to improve FOIA operations and facilitate information disclosure."

CIGIE is a Federal entity created by the Inspector General Reform Act of 2008 (P.L. 110-409) which charged CIGIE with "address[ing] integrity, economy, and effectiveness issues that transcend individual Government agencies, and increase[ing] the professionalism and effectiveness of personnel by developing policies, standards and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General." CIGIE's membership consists of 72 Federal Inspectors General, the Deputy Director for Management, Office of Management and Budget (DDM/OMB), and 5 other integrity related Federal executives. CIGIE's Executive Chairperson is the DDM/OMB, and CIGIE is led by an elected Inspector General member who serves as Chairperson. CIGIE currently employs seven (7) employees who support the activities and mission of CIGIE.

Section I: Steps Taken to Apply the Presumption of Openness

CIGIE received its first FOIA request in FY 2010. During that same period, CIGIE had no-one in direct employ. At that time CIGIE staff operations were being led by the Acting Executive Director, who was employed by the U.S. Department of Agriculture's Office of Inspector General (OIG). From FY 2010 through FY 2013, all requests received are handled through this OIG's FOIA Office. Since FY 2014, the U.S. Department of Housing and Urban Development (HUD) OIG's FOIA Office has handled incoming CIGIE FOIA requests. In December 2012, CIGIE published FOIA regulations which provide the procedures under which CIGIE implements the FOIA for all requests and appeals received. Additionally, CIGIE continues to make discretionary releases when possible and has taken actions to make additional proactive disclosures through postings on the agency's website. CIGIE is familiar with Attorney General Holder's Guidelines on FOIA and has a full understanding of the presumption of openness called

for by the President. We are applying this principle in our FOIA processing. As we move forward, we are looking to make discretionary releases when practicable.

FOIA Training:

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

No. During FY 2013, CIGIE employed seven (7) people, none of whom processed FOIA requests.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

Not applicable.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

CIGIE does not employ any staff who process FOIA requests. Instead, CIGIE provides incoming requests to the Federal agency contracted to provide FOIA services for processing.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

Not applicable.

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

Not applicable. CIGIE does not employ any staff who process FOIA requests.

Outreach:

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

Not applicable because CIGIE does not employ any staff who process FOIA requests.

Discretionary Disclosures:

7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

CIGIE made discretionary releases of otherwise exempt content under the b(5) 'deliberative process' exemption. CIGIE's Chief FOIA Officer reviewed responsive records for requests containing this exemption and determined in several cases to release otherwise exempt deliberative process privileged information. In doing so, he conducts a foreseeable harm analysis; he releases otherwise deliberative process privileged content unless he identifies harm that would occur with disclosure.

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Yes.

9. What exemptions would have covered the information that was released as a matter of discretion?

CIGIE made discretionary releases of content in several requests which was otherwise exempt under 5 U.S.C. 552(b)(5).

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

Of the 37 requests CIGIE received in FY 2013, several requests were for various CIGIE committee meeting minutes or notes. CIGIE made discretionary releases of deliberative processed privileged content on these requests. Further, CIGIE has made discretionary releases of deliberative content contained in email records after conducting a foreseeable harm analysis.

11. If your agency was not able to make any discretionary releases of information, please explain why.

Not applicable.

Other Initiatives:

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

Yes. CIGIE posted all 4 quarterly FOIA reports for FY 2013; however, the 4th quarterly report was not posted within the specified timeframe. CIGIE is working toward a more timely approach to posting the FY 2014 quarterly FOIA reports.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

Requests are reviewed to make discretionary releases when practicable. In Fiscal Year 2013, the only FOIA exemption exerted by CIGIE which allowed for discretionary release of information was the b(5) 'deliberative process' exemption. CIGIE did not withhold any records under Exemption 2 or any other exemption allowing for discretionary release of information.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

CIGIE's system for responding to requests from 2010 to the present is to forward the request to the FOIA office of the Federal agency contracted to provide FOIA processing services, along with CIGIE documents relating to the request. That agency's FOIA office reviews the request and materials and determines whether any of the CIGIE documents are responsive to the request, and what, if any, FOIA or Privacy Act exemptions are applicable in the release of the responsive records. That agency's FOIA office uses CIGIE's FOIA regulations, which were promulgated in December 2012, when processing CIGIE FOIA requests and appeals.

Personnel:

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

Not applicable; CIGIE does not employ any staff who process FOIA requests.

2. If not, what proportion of personnel has been converted to the new job series?

Not applicable.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

Not applicable.

Processing Procedures:

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will

take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

CIGIE did not receive any requests for expedited processing in Fiscal Year 2013.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

In Fiscal Year 2013, CIGIE did not receive any referral requests, and we received only one consultation. This consultation was processed within a few days. At this time, CIGIE does not see a need to create new procedures to handle consultations or referrals because CIGIE receives so few consultations or referrals.

Requester Services:

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

Yes, CIGIE generally uses email to communicate with requesters, unless he or she specifies otherwise.

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

Yes. CIGIE has recently adopted a policy of notifying requesters of mediation services offered by OGIS. Further, CIGIE has made this information easily accessible by posting it on our FOIA website.

8. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.

The Federal agency contracted to provide CIGIE FOIA services creates monthly reports for management conveying the number of processed, pending and backlogged CIGIE FOIA requests and appeals. The purpose of these reports is to track efficiency and improve processing performance respecting CIGIE requests and appeals.

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

Yes.

2. If so, describe the system that is in place.

CIGIE's FOIA Officer proactively identifies records of interest to the public which are appropriate for disclosure, and he ensures that those documents are posted to CIGIE's website.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

CIGIE has added new material to its website this year, such as data underlying the Fiscal Year 2012 Progress Report to the President. The FY 2012 Progress Report to the President, as well as prior year Reports can be located on CIGIE's website at <http://www.ignet.gov/randp/arpt1.html>. Other materials added were: a Summary of Inspector General Reports Related to Data Analytics for Oversight and Law Enforcement, Summary of Inspector General Compliance with the Improper Payments Elimination and Recovery Act of 2010, and Reducing Over-Classification Act Evaluation Guide. These various publications can be located at <http://www.ignet.gov/randp/rpts1.html>. Additionally, minutes from various Council Committees have been added to the website and can be located at <http://www.ignet.gov/foiarr.html>.

Making Posted Material More Useful:

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

Yes.

5. If so, provide examples of such improvements.

In December 2012, CIGIE published FOIA regulations. In December 2013, The Center for Effective Government published a report titled "Best Practices for Agency Freedom of Information Act Regulations," which takes a critical look at agency FOIA regulations,

highlighting good practices and including suggestions to bring deficient regulations to a place where they comply with the law and with the best practices of other agencies. CIGIE's regulations were highlighted in the report as an example of recommended best practices. Specifically, CIGIE was cited as providing information about the agency's FOIA Public Liaison. Further, CIGIE has posted information on the Office of Government Information Services (OGIS) on its website.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

No. However, CIGIE provides an email address on its website to solicit feedback on content and presentation of posted material.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

CIGIE records are often created by previous or standing Committee chairs' respective agencies, requiring CIGIE to consult with other agencies before releasing records. This, in turn, makes it difficult for CIGIE to proactively disclose records without undertaking a lengthy consultation process.

8. Describe any other steps taken to increase proactive disclosures at your agency.

In addition to proactively identifying records of interest to the public not yet requested, CIGIE's FOIA Officer identifies for posting records released in response to FOIA requests that are likely to become the subjects of subsequent requests.

Section IV: Steps Taken to Greater Utilize Technology

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

CIGIE does not electronically track FOIA requests. CIGIE received a small number of FOIA requests (only 37) in Fiscal Year 2013. CIGIE responds to all status inquiries received via its FOIASTAFF@CIGIE.gov mailbox. Further, CIGIE provides a phone number and a FOIA log number for requesters to call to check on the status of their requests in all acknowledgment letters.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

Not applicable.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

Not applicable. We do not have an online tracking system.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

When requested, CIGIE provides FOIA requesters with an estimated completion date in writing. Documentation regarding a status update request is added to the FOIA case file. Further, if the request is voluminous or broad in scope, CIGIE will provide the requester with an opportunity to reformulate the scope of the request, if he or she chooses, in order to potentially reduce processing time.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

CIGIE does not see a need for this technology at this time because CIGIE received only 37 requests in FY 13. However, if FOIA requests increase in the future, online tracking will be considered.

Use of technology to facilitate processing of requests:

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

CIGIE does not see a need at this time to utilize more advanced technology to process requests and appeals.

7. If so, describe the technological improvements being made.

Not applicable.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

If, in the future, CIGIE receives an increased number of incoming requests, acquiring advanced document review software to de-duplicate requested records would help increase processing efficiency.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

Simple Track Requests:

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

- a. Does your agency utilize a separate track for simple requests?

Yes. CIGIE processes requests using a multitrack processing system. There are four processing tracks: An expedited track, if the request qualifies; a simple track for relatively simple requests; a complex track for more complex and lengthy request; and a remanded track, when a FOIA appeal is granted.

- b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

According to CIGIE's 2013 Annual FOIA report, the average number of days to process simple requests was 23 days.

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Not applicable.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

2. Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

No. At the end of Fiscal Year 2012, CIGIE had a backlog of four requests. At the end of Fiscal Year 2013, CIGIE had a backlog of seven requests.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

No. CIGIE had a backlog of two appeals at the end both of FY 2012 and FY 2013.

Ten Oldest Requests

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

No.

- d. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

CIGIE had only four requests pending at the end of Fiscal Year 2012, and the agency closed two out of four oldest requests in Fiscal Year 2013.

Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

Yes. CIGIE had only two appeals pending from Fiscal Year 2012, and the agency closed these two oldest appeals in Fiscal Year 2013.

- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

Ten Oldest Consultations

- g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

Not applicable. CIGIE did not have any consultations pending at the end Fiscal Year 2012.

- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

Reasons for Any Backlogs:

- 3. If you answered “no” to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

No. The lack of reduction in the request and appeal backlogs was not due to an overall increase in the number of incoming requests. CIGIE received 41 requests in FY 12 and 37 requests in FY 13. Similarly, for both FY 12 and FY 13, CIGIE received three appeals per year.

- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

Yes. The request backlog increase by three requests was due to a decrease in the number of “Equivalent Full-Time FOIA employees” from Fiscal Year 2012 to Fiscal Year 2013 at the Federal agency contracted to provide CIGIE FOIA services.

- c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?

No.

- d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

Not applicable.

“Ten oldest” Not Closed

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.

Reduced FOIA staff at the Federal agency contracted to provide FOIA services for CIGIE was the primary obstacle to closing the seven backlogged requests from FY 2012.

- f. If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Not applicable.

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014.

So far this year, CIGIE has closed five of the seven requests backlogged from FY 13 and both FY 13 backlogged appeals. CIGIE plans to close the remaining oldest request during FY 14 by devoting additional staff resources from the Federal agency contracted to provide FOIA services to processing these requests.

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.

Not applicable.

Interim Responses:

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes. For voluminous FOIA requests, CIGIE provides interim responses to the extent feasible.

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Of the seven backlogged requests at the end of FY 13, CIGIE provided a substantive, partial response on one request.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

No.

2. If so, what was the total number of times exclusions were invoked?

Not applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2013 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

This year, CIGIE's FOIA regulations were highlighted in The Center for Effective Government's report titled "Best Practices for Agency Freedom of Information Act Regulations." Specifically, CIGIE was cited as providing information about the agency's FOIA Public Liaison. In addition, CIGIE added new material to its website this year, such as minutes of various Council Committees.